

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

GILBERT JAMES)
)
Plaintiff,)
)
v.) Civil Action No. 3:11cv221
)
ENCORE CAPITAL GROUP, INC., *et al.*)
)
Defendants.)

**PLAINTIFF'S MEMORANDUM IN SUPPORT OF HIS
MOTION TO FILE DOCUMENTS UNDER SEAL**

COMES NOW the Plaintiff, Gilbert James, by counsel, and for his Memorandum in Support of His Motion to File Documents Under Seal, he states as follows:

On August 12, 2011, this court entered a Protective Order (Docket No. 37) governing the use, handling, and disclosure of all documents, testimony, or information produced or given in this action that are designated to be subject to this Order. Plaintiff now seeks to file his Motion to Overrule Defendants' Privilege Objections and to Compel Discovery Responses and Unobstructed Witness Testimony, which includes exhibits and information designated by the Defendants to be subject to this Protective Order. While Plaintiff does not agree with Defendants' designations of nearly all of these exhibits as confidential, he nevertheless seeks to comply with the Protective Order as entered.

Despite Defendants' designations of nearly everything as confidential, Plaintiff contends that the use of these documents, materials, and other information contained within the brief and the attached exhibits is necessary to establish and support his argument that the Defendants' privilege objections are unfounded for numerous reasons, including the applicability of the so-

called “tort/crime/fraud exclusion.” As Plaintiff explains in his Motion, the exhibits attached thereto demonstrate that the exclusion clearly applies. For example, the exhibits include manuals, policies, and other documents outlining the procedures of Defendants’ fraudulent affidavit process, including deposition testimony of its current or former employees relating to acts or omissions that relate to the Defendants’ submission of sworn affidavits to Virginia courts. Furthermore, the exhibits provide evidence of the structure of the Defendants’ enterprise related to Plaintiff’s RICO claim, such as their associations, contracts, and/or agreements with third party collection firms. As a result, these documents, information, or other materials are essential to providing support for the relief requested by Plaintiff’s motion, and must be considered by the Court in its consideration of the same.

CONCLUSION

WHEREFORE, Plaintiff Gilbert James respectfully requests that the Court grant his Motion to File Documents Under Seal and grant him any other relief as the Court deems just and proper.

Respectfully submitted,
GILBERT JAMES

By: _____ /s/
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CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of March, 2012, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

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